IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 15977 of 2005

Between:

D. Gopal Reddy S/o Veera Swamy Reddy
Madapalem Village, Naidupeta Mandal, Nellore District

..... PETITIONER

AND

1 The Divisional Engineer (Assessments), APSPDCL, Tirupati
2 The Assistant Divisional Engineer, Operation, APSPDCL., Naidupeta, Nellore district
3 The Assistant Accounts Officer, ERO., Naidupet

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ, more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondents in demanding the payment of half of the provisional Assessment through LR. NO. ADE/O/N.Pet/F DOC/D.No. 268/05, dt 27-6-2005 before making the final assessment order as illegal arbitrary and violative of principals of natural justice and contrary to the procedure contemplated U/s. 126 of the Electricity Act, 2003 and set- aside the said notice dt 27-6-2005 and pass such other order or orders in the interest of justice

Counsel for the Petitioner: MR.V.SUDHAKAR REDDY

Counsel for the Respondent No.: MR.V.AJAYAKUMAR

The Court made the following :

ORAL ORDER:

The grievance of the petitioner in this writ petition is that electricity supply was disconnected to his house, pursuant to the orders of the Assistant Divisional Engineer (2nd respondent), vide proceedings dated 27-6-2005, whereby the value of energy alleged to have been pilfered by the petitioner was estimated at Rs.6804/- and the petitioner was informed that if he desired restoration of power supply he was required to pay Rs.3402/- being half of the estimated amount plus supervision charges of Rs.150/- plus Rs.151 towards E.D. charges plus Rs.50/- towards reconnection charges to the Accounts Officer.

Both the learned counsel for the petitioner and Sri V.Ajay Kumar, learned standing counsel for the respondents agree that the subject matter of this writ petition is covered by a Division Bench judgment of this Court in Writ Appeal Nos.452 and 477 of 2004 dated 11-3-2004 wherein the Division Bench held that the authorities did not have power to forthwith stop or disconnect electricity while issuing provisional assessment. It was further held that provisional assessment was in the nature of a show cause notice against which the consumer was entitled to have an opportunity of being heard before final orders were passed by the concerned authority and that the notice would be deemed to have been issued only under Section 126 of the Electricity Act under which there was no authority or power to the respondents to discontinue or disconnect electricity supply or call upon the petitioner to pay even part of the provisional assessment amount till final assessment was made. It was further held that only on the consumers not complying with the final assessment, the respondents could proceed further in the matter, which would also be subject to appeals, if any, to be filed by the consumers.

This writ petition is also disposed of in terms of the order of this Court in W.P.No.452 and 477 of 2004 dated 11-3-2004 with a direction that electricity supply to the petitioner shall be restored forthwith and the concerned authority will proceed to pass final orders, after affording opportunity of being heard to the petitioner. No costs.

_____

21-7-2005

Note:

C.C. by tomorrow

B/o

asp

To:

1 The Divisional Engineer (Assessments), APSPDCL, Tirupati
2 The Assistant Divisional Engineer, Operation, APSPDCL., Naidupeta, Nellore district
3 The Assistant Accounts Officer, ERO., Naidupet

4. Two C.D. copies